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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,074	09/05/2000	Michio Naka	10873.164 USC2	8424
23552	7590	10/20/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			ALEXANDER, LYLE	
			ART UNIT	PAPER NUMBER
			1743	
DATE MAILED: 10/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/655,074
Filing Date: September 05, 2000
Appellant(s): NAKA ET AL.

Mr. Douglas P. Mueller
For Appellant

EXAMINER'S ANSWER

MAILED
OCT 20 2004
GROUP 1700

This is in response to the appeal brief filed 7/19/04.

A statement identifying the real party in interest is contained in the brief.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is incorrect as a result of the Office reconsidering the remarks put forth. The Office is changing the status of the claims to reflect that additional claims, 29,31-33,38,40 and 42-43 are objected to and claims 50-74 and 76 are now allowable. A correct statement of the status of the claims is as follows:

This appeal involves claims 9-18,28, 30,39, 41,44,46-49 and 75.

Claims 50-74 and 76 are allowed.

Claims 7,10-11,18,29,31-33,38,40 and 42-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

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(7) Grouping of Claims

Appellant's brief includes a statement that claims 13,29-31,39-40,42-44,70 and 73-76 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

3,620,676	Davis	11-1971
4,806,313	Ebersole et al.	2-1989

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 9,12-17,28,30,39,41,44,46-49 and 75 are rejected under 35 U.S.C.

103(a). This rejection is set forth in a prior Office Action, mailed on 10/21/03.

(11) Response to Argument

Appellants' remarks concerning claims 50-74 and 76 were convincing. Additionally, the Office found Appellants' remarks concerning claims 29,31-33,38,40 and 42-43 convincing and these claims are now objected to as being dependent upon a base that is rejected.

Appellants' traverse the rejection of claims 9,12-17,28,30,39,41,44,46-49 and 75 over Ebersole or Davis in view of Apicella on the basis a hand manipulated suction generator in communication with a drawing channel containing an analytical section is not taught. The Office maintains all of these elements are clearly taught by the cited prior art and clearly identified in the rejections of record.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,


Lyle A Alexander
Primary Examiner
Art Unit 1743



October 18, 2004

Conferees
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